

Remarks

1. Summary of the Office Action

In the office action mailed May 13, 2008, (i) the Examiner rejected claim 2 under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter, (ii) the Examiner rejected claims 1-11 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 7,275,243 (hereinafter "Gibbons"), and (iii) as far as Applicant can tell, the Examiner rejected claims 18, 19, and 22 under 35 U.S.C. § 102(e) as allegedly being anticipated by Gibbons.

The Office Action Summary indicates that the action is non-final. However, page 8 of the office action indicates that the action has been made final.

2. Information Disclosure Statements

Applicant submitted an Information Disclosure Statement (IDS) on February 20, 2008 and another IDS on April 4, 2008. For each of these IDSs, Applicant paid the Patent Office fee under 37 C.F.R. § 1.17(p). Copies of three sheets of these IDSs were attached to the office action mailed May 13, 2008. However, the Examiner did not sign or place his initials on sheet 2 of the IDS submitted on February 20, 2008. Sheet 2 recites the reference by Wireless Application Forum, Ltd., WAP Services Indication Version 08-Nov. 1999, Wireless Application Protocol Service Indication Specification. Applicant assumes that the Examiner has considered the reference cited on sheet 2 of the IDS, but nonetheless, would appreciate receiving confirmation that the Examiner has considered the reference.

Additionally, Applicant submitted an IDS on May 1, 2008 and paid the Patent Office fee under 37 C.F.R. § 1.17(p). The office action mailed May 13, 2008 did not include a copy of the IDS submitted on May 1, 2008 to show whether the Examiner considered the references cited on the IDS. Applicant assumes that the Examiner has considered the references cited on the IDS

submitted on May 1, 2008, but nonetheless, would appreciate receiving confirmation that the Examiner has considered these references.

3. Claim Amendments and Pending Claims

Applicant has added new claims 25 and 26. Claims 1-11, 18, 19, 22, 25, and 26 are presently pending in this application. Of the pending claims, claims 1 and 26 are independent.

4. Response to Claim Rejections under 35 U.S.C. § 101

The Examiner rejected claim 2 under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter. In particular, the Examiner indicated that Applicant's claim recites a computer readable medium, but that in Applicant's specification, Applicant discloses that the computer readable medium is remotely distributed. The Examiner then stated, "Claims which draw limitations to transmission type mediums involving signals are not considered statutory subject matter." (Office action mailed May 13, 2008, page 2).

According to M.P.E.P. § 2106.01, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. Claim 2 recites a computer readable medium having stored therein instructions for causing a processor to execute the method of claim 1. Applicant submits that the claimed computer readable medium having stored instructions defines structural and functional interrelationships between the stored instructions and the processor which permit the stored instruction's functionality to be realized, and is thus statutory.

Additionally or alternatively, although the Examiner indicated that claims which draw limitations to *transmission type mediums* involving signals are not considered as statutory

subject matter, claim 2 recites a *computer readable medium*, not a *transmission type medium*. Therefore, Applicant submits that the claimed computer readable medium should not be considered as non-statutory subject matter based on a class of non-statutory subject matter known as transmission type mediums involving signals.

Furthermore, although the Examiner indicated that Applicant discloses the computer readable medium is distributed remotely, Applicant's claimed computer-readable medium is not so limited. Other examples of arrangements for the computer readable medium are disclosed in the specification, for example, at page 14, lines 3-6.

5. Response to Claim Rejections under 35 U.S.C. § 102

The Examiner rejected independent claim 1 under 35 U.S.C. § 102(e) as being anticipated by Gibbons. Under M.P.E.P. § 2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Gibbons does not teach or suggest each and every element of claim 1. At a minimum, Gibbons does not teach or suggest (i) processing the downloaded generic content descriptor file *at the mobile information device* so as to *determine whether the at least one attribute is present in the generic content descriptor file*, and (ii) *if the mobile information device* thereby determines that the at least one attribute in the generic content descriptor file is present, then thereafter downloading the non-Java content *to the mobile information device*, as recited in claim 1.

In rejecting claim 1, the Examiner argued that column 4, lines 60-67 of Gibbons discloses the function of downloading to the mobile information device a generic content descriptor file for the non-Java content. (Office action mailed May 13, 2008, page 3). Based on this argument,

as far as Applicant can tell, the Examiner argued that the “Mobile Terminal Device,” disclosed at column 4, lines 61-63 of Gibbons, amounts to the claimed “mobile information device.”

Figure 1 of Gibbons depicts a Mobile terminal (MT) device 110, and Figure 3 of Gibbons depicts a mobile information device (i.e., a MT device) 375. (See also, Gibbons, col. 7, line 49, and col. 15, line 66). Figure 4 of Gibbons depicts users 415. According to Gibbons, the system of Figure 3 can be represented by the high level diagram of Figure 4, and in one embodiment, users 415 are mobile devices in wireless communication with server 410. (See, e.g., Gibbons, col. 16, lines 22-23 and col. 16, lines 40-42). Thus, as far as Applicant can tell, each user 415 is a mobile terminal (MT) device that communicates wirelessly with server 410.

Next, in rejecting claim 1, the Examiner then argued that column 5, lines 30-40 and column 16 of Gibbons disclose the function of processing the downloaded generic content descriptor file at the mobile information device so as to determine whether the at least one attribute is present in the generic content descriptor file. (Office action mailed May 13, 2008, page 3). In particular, the Examiner argued that a catalog matching component 465 is executed on the mobile device and that column 16, line 40 of Gibbons shows that users 415 download and execute this package. (Office action mailed May 13, 2008, page 3). As far as Applicant can tell, the “package” that the Examiner referred to is the catalog matching component 465.

Gibbons teaches (i) *a server 410 comprises* packager component 450, configuration management component 455, capability matching component 460, *catalog matching component 465*, and storage component 490, and (ii) *submitted content* can be processed by various components of server 410 and *downloaded by users 415 for execution*. (See, e.g., Gibbons, col. 16, lines 28-40). Although this portion of Gibbons teaches that *submitted content* can be downloaded by users 415 (i.e., mobile devices in wireless communication with server 410) for

execution, Gibbons does not teach or suggest that users 415 download and execute the catalog matching component 465 as argued by the Examiner. Therefore, even if it is assumed, for the sake of argument, that the *catalog matching component 465 (of server 410)* processes a downloaded generic content descriptor file so as to determine whether at least one attribute is present in the generic content descriptor file, Applicant submits that Gibbons does not teach or suggest processing the downloaded generic content descriptor file *at the mobile information device* so as to determine whether the at least one attribute is present in the generic content descriptor file, as recited in claim 1.

Because Gibbons does not teach or suggest each and every element of claim 1, Gibbons fails to anticipate claim 1 under 35 U.S.C. § 102(e). Additionally, without conceding the assertions made by the Examiner to reject dependent claims 2-11, 18, 19, and 22 under 35 U.S.C. § 102(e), Applicant submits that dependent claims 2-11, 18, 19, 22, and 25 are allowable for at least the reason that they depend from allowable claim 1.

6. New Claim 26

Independent claim 26 recites, *inter alia*, processing the downloaded generic content descriptor file *at the wireless mobile phone* so as to determine whether the at least one attribute is present in the generic content descriptor file. (Emphasis added). Even if it is assumed, for the sake of argument, that the *catalog matching component 465 (of server 410)* processes a downloaded generic content descriptor file so as to determine whether at least one attribute is present in the generic content descriptor file, Applicant submits that Gibbons does not teach or suggest processing the downloaded generic content descriptor file *at the wireless mobile phone* so as to determine whether the at least one attribute is present in the generic content descriptor

file, as recited in claim 26. Because Gibbons does not teach or suggest each and every element of claim 26, Gibbons fails to anticipate claim 26.

7. Conclusion

Applicant believes that all of the pending claims have been addressed in this response. However, failure to address a specific rejection or assertion made by the Examiner does not signify that Applicant agrees with or concedes that rejection or assertion.

For the foregoing reasons, Applicant submits that claims 1-11, 18, 19, 22, 25, and 26 are in condition for allowance. Therefore, Applicant respectfully requests favorable reconsideration and allowance of all of the claims.

Respectfully submitted,

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